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EXAMINER
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SQUIRES, ELIZA A

ART UNIT	PAPER NUMBER
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3626

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10/28/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/750,478	<b>Applicant(s)</b> DOYEL ET AL.	
	<b>Examiner</b> Eliza Squires	<b>Art Unit</b> 3626	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 June 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-48 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-48 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. The Amendment dated 6/23/2009 has been entered. Claims 1-6, 10-13, 15, 17, 20, 23-28, 30, 34-35, 37, 40, 42, and 43-48 have been amended. Claims 1-48 remain pending in the application.

#### ***Response to Arguments***

##### *Rejections under 35 USC 101*

2. The rejections under 35 USC 101 of claims 1-43, 45, and 47 are withdrawn in light of Applicant's amendments to the claims.

##### *Rejections under 35 USC 112*

3. The rejections under 35 USC 112 2<sup>nd</sup> of claims 17, 47, 19, 39, 45, and 47 are withdrawn in light of Applicant's amendments to the claims.

4. The Examiner maintains the rejections of claims 23-43 for the recitation of various software elements ("modules") without disclosing what structure embodies the software elements. In order to properly claim a system, commensurate with the definition of a system, structural elements must be claimed. It remains unclear what structure processes and stores the code associated with the modules. Disembodied software or "modules" are simply non-functional descriptive material. For example, a "first displaying module" is not processed by a processor, therefore cannot function to display any data upon a display device.

5. The rejections are maintained.

##### *Rejections under 35 USC 102 and 103*

6. Applicant's arguments regarding art rejections under 35 USC 102 and 103 are moot in view of new grounds of rejection necessitated by Applicant's amendment.

***Claim Objections***

7. **Claims 1** are objected to because of the following informalities: the claim recites in the preamble “a method in a computer system for automatically determining an expectation for a health maintenance item has not been satisfied...” and “automatically determining the expectation for the at least one health maintenance item has not been satisfied”. These phrases are grammatically improper. The Examiner recommends that the phrases should read “a method in a computer system for automatically determining an expectation for a health maintenance item that has not been satisfied...” and “automatically determining the expectation for the at least one health maintenance item that has not been satisfied” or the like. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

8. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

9. **Claim(s) 15-16, 23-34, 35-36, 44-45 and 48** is/are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

10. **As per claim(s) 15-16, 23-34, 35-36, 44-45 and 48** these claims are rejected for at least the same rationale as discussed above, and incorporated herein.

11. The newly added limitation in claim 15 (and similarly in claim 23) recites “receiving, by the computing device, a request for details associated with at least of the possible satisfiers” and “displaying the details based on the request, wherein the details are displayed in a separate screen utilizing the user-interface.” Similarly claims 44 and 48 recite requesting additional information associated with the unsatisfied health maintenance item.

12. Claim 35 recites a “determining module for determining a priority module...” and similarly in claim 45 “determining a priority”. Appears also to be new matter as the priority level appears to be displayed, although the Examiner could not find how and what determines this level in the specification.

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NOTE: The rejection presented hereinbelow is for Applicant's consideration should Applicant properly traverse the new matter issues discussed above in the response hereto.

13. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

14. **Claims 23-43** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

15. **Claims 23-43** recite various software elements ("modules") without disclosing what structure embodies the software elements. In order to properly claim a system, commensurate with the definition of a system, structural elements must be claimed. It remains unclear what structure processes and stores the modules. Disembodied software or "modules" are simply non-functional descriptive material. For example, a "first displaying module" is not processed by a processor, therefore cannot function to display any data upon a display device.

***Claim Rejections - 35 USC § 103***

16. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

17. **Claims 1-7, 15-16, 23-36, and 43-46** are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 7,464,041 to *Merkin et al.* in view of U.S. Patent Application Publication 2003/0208391 to *Dvorak et al.*

18. **As to claim 1**, *Merkin* discloses a method in a computer system for automatically determining an expectation for a health maintenance item has not been satisfied, the method comprising:

obtaining patient information (*Merkin* see electronic health record abstract, column 2 lines 62-67, column 3 lines 1-17, and column 7 lines 5-32);

applying one or more factors to the patient information utilizing a computing device, wherein the computing device applies the one or more factors to the patient information to generate an expectation for at least one health maintenance item for a person (*Merkin* column 4 lines 21-29 and claim 1);

automatically determining whether the expectation for the at least one health maintenance item has not been satisfied (*Merkin* column 4 lines 21-29);

*Merkin* teaches that scheduling an appointment may be a satisfier (*Merkin* column 11 lines 37-53). However, the reference does not teach determining and displaying more than one satisfier, receiving a selection, and storing and displaying a schedule. *Dvorak* discloses:

determining more than one satisfier for the unsatisfied expectation for the at least one health maintenance item (*Dvorak* figure 1, and figure 2 items 216, 218, 220);

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displaying the more than one satisfier for the unsatisfied expectation (*Dvorak* figure 1, and figure 2 items 216, 218, 220);

receiving a selection of a first satisfier of the more than one satisfier utilizing an input area associated with the satisfier (*Dvorak* figure 1, and figure 2 item 220);

storing the first satisfier for display in a health maintenance schedule associated with the patient (*Dvorak* figure 2 items 202, 204, 226, and 224); and

displaying the health maintenance schedule associated with the patient, including the first satisfier (*Dvorak* figure 2 items 202, 204, 226, and 224).

It would have been obvious to one of ordinary skill in the art to include in the method of *Merkin* the scheduling system as taught by *Dvorak* since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

19. **As to claim 2**, see the discussion of claim 1, additionally, *Merkin* discloses the method wherein determining the expectation is not satisfied includes searching an integrated database in a comprehensive healthcare system to determine if an existing order has been placed for the expectation (*Merkin* column 4 lines 30-47, column 9 lines 43-67, and column 10 lines 1-17). Examiner notes that an order could be an appointment being made alternatively a fulfilled order would be an addition to a patient record documenting the completed procedure.

20. **As to claim 3**, see the discussion of claim 1, additionally, *Merkin* discloses the method wherein determining the expectation is not satisfied includes searching an integrated database in



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a comprehensive healthcare system to determine if a procedure has been documented (*Merkin* column 6 lines 11-51, column 9 lines 43-67, and column 10 lines 1-17).

21. **As to claim 4**, see the discussion of claim 1, additionally, *Merkin* discloses the method wherein determining the expectation is not satisfied includes searching an integrated database in a comprehensive healthcare system to determine if one or more result values exist for the expectation (*Merkin* column 6 lines 11-51, column 9 lines 43-67, and column 10 lines 1-17).

22. **As to claim 5**, see the discussion of claim 1, additionally, *Merkin Merkin* discloses the method wherein determining the expectation is not satisfied includes receiving an order for a satisfier for the expectation (*Merkin* column 4 lines 30-47, column 6 lines 11-51, column 9 lines 43-67, and column 10 lines 1-17, column 11 lines 38-53, and figures 1 and 2).

23. **As to claim 6**, see the discussion of claim 1, additionally, *Merkin* discloses the method wherein determining the expectation is not satisfied includes receiving documentation of a result that is a satisfier for the expectation (*Merkin* column 9 lines 43-67 and column 10 lines 1-17).

24. **As to claim 7**, see the discussion of claim 1, additionally, *Merkin* discloses the method wherein the health maintenance item is one of a screening (*Merkin* column 9 lines 43-67 and column 10 lines 1-17).

25. **As to claim 15**, *Merkin* discloses a method in a computer system for generating satisfiers for an expectation for a health maintenance item, the method comprising:

receiving data associated with a person from electronic records (*Merkin* see electronic health record abstract, column 2 lines 62-67, column 3 lines 1-17, and column 7 lines 5-32);

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obtaining, utilizing a computing device, one or more unsatisfied health maintenance item expectations for the person (*Merkin* claim 1 part (d), column 9 lines 43-67, and column 10 lines 1-17);

obtaining possible satisfiers for each of the one or more unsatisfied expectations, wherein the computing device determines the possible satisfiers by comparing the one or more unsatisfied expectations to information from a database (*Merkin* claim 1 part (d), column 9 lines 43-67, and column 10 lines 1-17);

*Merkin* teaches that scheduling an appointment may be a satisfier (*Merkin* column 11 lines 37-53). However, the reference does not teach displaying satisfiers, receiving a selection, and storing a schedule or a requesting details. *Dvorak* discloses:

displaying the possible satisfiers for each of the one or more unsatisfied expectations utilizing a user-interface (*Dvorak* figure 1, and figure 2 items 216, 218, 220);

receiving, by the computing device, a request for details associated with at least one of the possible satisfiers (*Dvorak* figure 1, and figure 2 items 216, 218, 220);

displaying the details based on the request, wherein the details are displayed in a separate screen utilizing the user-interface (*Dvorak* figure 1, and figure 2 items 216, 218, 220);

receiving a selection of at least one of the possible satisfiers (*Dvorak* figure 1, and figure 2 items 216, 218, 220); and

storing the at least one selected possible satisfier in association with the person, wherein the storage of the selected possible satisfier updates a health maintenance schedule for the person (*Dvorak* figure 2 items 202, 204, 226, and 224).

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It would have been obvious to one of ordinary skill in the art to include in the method of *Merkin* the scheduling system as taught by *Dvorak* since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

26. **As to claim 16**, see the discussion of claim 15, additionally, *Merkin* discloses the method wherein possible satisfiers are obtained from a pre-defined list for each health maintenance item stored in a database (*Merkin* claim 1 part (d), column 9 lines 43-67, and column 10 lines 1-17).

27. **As to claim 23**, *Merkin* discloses a computerized system for automatically determining whether an expectation for a health maintenance item has been satisfied, the system comprising:

a generating module for generating an expectation for a health maintenance item for a person based on medical information associated with the person (*Merkin* column 4 lines 21-29 and claim 1);

a determining module, utilized by a computing device, for automatically determining whether the expectation has not been satisfied, wherein the computing device determines the expectation has not been satisfied based on information from a database (*Merkin* column 4 lines 21-29);

*Merkin* teaches that scheduling an appointment may be a satisfier (*Merkin* column 11 lines 37-53). However, the reference does not teach determining and displaying a satisfier, receiving a selection, and storing and displaying a schedule. *Dvorak* discloses:

a first displaying module for displaying the expectation that has not been satisfied (*Dvorak* figure 1, and figure 2 items 216, 218, 220);

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a first receiving module for receiving an input indicating the expectation has been satisfied (*Dvorak* figure 1, and figure 2 items 216, 218, 220);

a first storing module for storing the input indicating the expectation has been satisfied (*Dvorak* figure 2 items 202, 204, 226, and 224);

a second displaying module for displaying a schedule for the person, wherein the schedule includes an indication the expectation has been satisfied (*Dvorak* figure 2 items 202, 204, 226, and 224);

a selecting module for selecting to view one or more details of the satisfied expectation (*Dvorak* figure 1, and figure 2 items 216, 218, 220); and

a third displaying module for displaying the one or more details of the satisfied expectation (*Dvorak* figure 1, and figure 2 items 216, 218, 220).

It would have been obvious to one of ordinary skill in the art to include in the method of *Merkin* the scheduling system as taught by *Dvorak* since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

28. **As to claim 24**, see the discussion of claim 23, additionally, *Merkin* discloses the system wherein determining the expectation has not been satisfied includes searching an integrated database in a comprehensive healthcare system to determine if an existing order has been placed for the expectation (*Merkin* column 4 lines 30-47, column 9 lines 43-67, and column 10 lines 1-17).

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29. **As to claim 25**, see the discussion of claim 23, additionally, *Merkin* discloses the system wherein determining the expectation has not been satisfied includes searching an integrated database in a comprehensive healthcare system to determine if a procedure has been documented (*Merkin* column 6 lines 11-51, column 9 lines 43-67, and column 10 lines 1-17).

30. **As to claim 26**, see the discussion of claim 23, additionally, *Merkin* discloses the system wherein determining the expectation has not been satisfied includes searching an integrated database in a comprehensive healthcare system to determine if one or more result values exist for the expectation (*Merkin* column 6 lines 11-51, column 9 lines 43-67, and column 10 lines 1-17).

31. **As to claim 27**, see the discussion of claim 23, additionally, *Merkin* discloses the system wherein the expectation is satisfied by receiving input indicating an order for a satisfier for the expectation (*Merkin* column 4 lines 30-47, column 6 lines 11-51, column 9 lines 43-67, and column 10 lines 1-17, column 11 lines 38-53, and figures 1 and 2).

32. **As to claim 28**, see the discussion of claim 23, additionally, *Merkin* discloses the system wherein the expectation is satisfied by receiving input indicating documentation of a result that is a satisfier for the expectation (*Merkin* column 6 lines 11-51, column 9 lines 43-67, and column 10 lines 1-17).

33. **As to claim 29**, see the discussion of claim 23, additionally, *Merkin* discloses the system wherein the health maintenance item is one of a screening (*Merkin* column 9 lines 43-67 and column 10 lines 1-17).

34. **As to claim 30**, see the discussion of claim 23, additionally, *Merkin* discloses the system further comprising a first obtaining module for obtaining medical information for the person

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from the person's electronic medical record in a comprehensive healthcare system (*Merkin* column 9 lines 43-67 and column 10 lines 1-17).

35. **As to claim 31**, see the discussion of claims 23 and 30, additionally, *Merkin* discloses the system further comprising a second obtaining module for obtaining one or more recommended health maintenance items (*Merkin* column 9 lines 43-67 and column 10 lines 1-17 also see claim 1).

36. **As to claim 32**, see the discussion of claims 23 and 30-31, additionally, *Merkin* discloses the system further comprising a third obtaining module for obtaining the factors that would qualify a person for the one or more health maintenance items (*Merkin* column 4 lines 16-29).

37. **As to claim 33**, see the discussion 23 and 30-32, additionally, *Merkin* discloses the system further comprising a comparing module for comparing the information for the person with the qualification factors to determine the person qualifies for one or more of the one or more recommended health maintenance items (*Merkin* column 11 lines 5-37).

38. **As to claim 34**, see the discussion of claims 22 and 30-33, additionally, *Merkin* discloses the system further comprising a second storing module for storing the input indicating the expectation has been satisfied in an electronic medical record associated with the person in a comprehensive healthcare system (*Merkin* claim 1 step (f) and claim 6).

39. **As to claim 35**, *Merkin* discloses a computerized system for generating satisfiers for an expectation for a health maintenance item, the system comprising:

a searching module for searching records associated with a person to identify unsatisfied health maintenance item expectations (*Merkin* column 4 lines 21-29 and claim 1);

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a first obtaining module for obtaining, at a computing device, one or more unsatisfied health maintenance item expectations for the person (*Merkin* column 4 lines 21-29);

a second obtaining module for obtaining, at the computing device, a possible satisfier for each of the one or more unsatisfied expectations; (*Merkin* column 4 lines 21-29)

*Merkin* teaches that scheduling an appointment may be a satisfier (*Merkin* column 11 lines 37-53). However, the reference does not teach determining and displaying more than one satisfier, receiving a selection, and storing and displaying a schedule. *Dvorak* discloses:

a first displaying module for displaying the possible satisfier for each of the one or more unsatisfied expectations, wherein the display includes an input area associated with each of the possible satisfiers (*Dvorak* figure 1, and figure 2 items 216, 218, 220);

a receiving module for receiving input associated with a first satisfier of the possible satisfier for each of the one or more unsatisfied expectations (*Dvorak* figure 1, and figure 2 item 220);

a storing module for storing the input in association with the first satisfier (*Dvorak* figure 2 items 202, 204, 226, and 224);

an updating module for updating a patient schedule based on the input (*Dvorak* figure 2 items 202, 204, 226, and 224); and

a determining module for determining a priority level of the first satisfier (*Dvorak* [0034]);

a second displaying module for displaying the updated patient schedule, including the first satisfier and the priority level (*Dvorak* [0034]).

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It would have been obvious to one of ordinary skill in the art to include in the method of *Merkin* the scheduling system as taught by *Dvorak* since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

40. **As to claim 36**, see the discussion of claim 35, additionally, *Merkin* discloses the system wherein possible satisfiers are obtained from a pre-defined list for each health maintenance item stored in a database (*Merkin* claim 1 c. iii).

41. **As to claim 43**, *Merkin* discloses a system in a computerized environment for automatically determining an expectation for a health maintenance item has not been satisfied, the method comprising:

searching a set of electronic records (*Merkin* see electronic health record abstract, column 2 lines 62-67, column 3 lines 1-17, and column 7 lines 5-32);

generating an expectation for a health maintenance item for a person (*Merkin* column 4 lines 21-29 and claim 1);

automatically determining, utilizing a first computer process, the expectation has not been satisfied by comparing the expectation to information selected from one or more of the following: the set of electronic records (*Merkin* column 4 lines 21-29 and claim 1);

*Merkin* teaches that scheduling an appointment may be a satisfier (*Merkin* column 11 lines 37-53). However, the reference does not teach determining and displaying more than one satisfier, receiving a selection, and storing and displaying a schedule. *Dvorak* discloses:



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displaying more than one input option associated with the expectation (*Dvorak* figure 1, and figure 2 items 216, 218, 220);

receiving a selection of at least one of the input options associated with the expectation (*Dvorak* figure 1, and figure 2 items 216, 218, 220);

updating, utilizing a second computer process, the health maintenance item for the person based on the selection of at least one of the input options (*Dvorak* figure 1, and figure 2 items 216, 218, 220);

determining, utilizing a third computer process, a health maintenance schedule for the person, wherein the first, second and third computer processes are performed on one or more computing devices (*Dvorak* figure 2 items 202, 204, 226, and 224); and

displaying the health maintenance schedule, wherein the schedule includes the updated health maintenance item (*Dvorak* figure 2 items 202, 204, 226, and 224).

It would have been obvious to one of ordinary skill in the art to include in the method of *Merkin* the scheduling system as taught by *Dvorak* since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

42. **As to claim 44**, *Merkin* discloses computer-executable instructions for performing a method, the method comprising:

generating an expectation for a health maintenance item for a person (*Merkin* column 4 lines 21-29 and claim 1);and

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automatically determining whether the expectation has not been satisfied wherein a computing device determines the expectation has not been satisfied (*Merkin* column 4 lines 21-29 and claim 1);

*Merkin* teaches that scheduling an appointment may be a satisfier (*Merkin* column 11 lines 37-53). However, the reference does not teach determining and displaying more than one satisfier, receiving a selection, and storing and displaying a schedule. *Dvorak* discloses:

displaying a health maintenance schedule for the person, including the unsatisfied health maintenance item, on an interface (*Dvorak* figure 1, and figure 2 items 216, 218, 220);

displaying an input area for receiving requests for additional information associated with the unsatisfied health maintenance item (*Dvorak* figure 1, and figure 2 items 216, 218, 220);

receiving a request for the additional information (*Dvorak* figure 1, and figure 2 items 216, 218, 220); and

opening a window on the interface, in response to the request, that includes additional information about the unsatisfied health maintenance item (*Dvorak* figure 1, and figure 2 items 216, 218, 220).

43. **As to claim 45**, *Merkin* discloses a system in a computerized environment for generating satisfiers for an expectation for a health maintenance item, the method comprising:

obtaining one or more unsatisfied health maintenance item expectations for a person by applying factors to information associated with the person (*Merkin* column 4 lines 21-29 and claim 1);

obtaining possible satisfiers for each of the one or more unsatisfied expectations (*Merkin* column 4 lines 21-29 and claim 1);

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*Merkin* teaches that scheduling an appointment may be a satisfier (*Merkin* column 11 lines 37-53). However, the reference does not teach determining and displaying a satisfier, receiving a selection, and storing and displaying a schedule. *Dvorak* discloses:

displaying the possible satisfiers for each of the one or more unsatisfied expectations (*Dvorak* figure 1, and figure 2 items 216, 218, 220);

receiving input associated with a first satisfier of the possible satisfiers for each of the one or more unsatisfied expectations (*Dvorak* figure 1, and figure 2 items 216, 218, 220);

determining a priority for the first satisfier (*Dvorak* [0034]);

updating, utilizing a computing device, a health schedule for the person based on the input (*Dvorak* figure 1, and figure 2 items 216, 218, 220); and

displaying the updated health schedule, including the first satisfier and an indication of the priority (*Dvorak* figure 1, and figure 2 items 216, 218, 220).

It would have been obvious to one of ordinary skill in the art to include in the method of *Merkin* the scheduling system as taught by *Dvorak* since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

44. **As to claim 46**, *Merkin* discloses A computer-readable medium having computer-executable instructions for performing a method, the method comprising:

obtaining, utilizing a first computer process, one or more unsatisfied health maintenance item expectations for a person by searching electronic records (*Merkin* column 4 lines 21-29 and claim 1);

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obtaining, utilizing a second computer process, possible satisfiers for each of the one or more unsatisfied expectations (*Merkin* column 4 lines 21-29 and claim 1);

*Merkin* teaches that scheduling an appointment may be a satisfier (*Merkin* column 11 lines 37-53). However, the reference does not teach determining and displaying a satisfier, receiving a selection, and storing and displaying a schedule. *Dvorak* discloses:

displaying the possible satisfiers for each of the one or more unsatisfied expectations (*Dvorak* figure 1, and figure 2 items 216, 218, 220);

receiving input associated with a first unsatisfied expectation, wherein the input indicates expiration of the first unsatisfied expectation (*Dvorak* [0034]);

storing, utilizing a third computer process, the input in association with the first unsatisfied expectation, wherein the first, second and third computer processes are performed on one or more computing devices (*Dvorak* figure 2 items 202, 204, 226, and 224);

receiving a request for a health maintenance schedule for the person (*Dvorak* figure 2 items 202, 204, 226, and 224);

displaying the schedule, including the first unsatisfied expectation (*Dvorak* figure 2 items 202, 204, 226, and 224);

receiving a selection of the first unsatisfied expectation (*Dvorak* figure 2 items 202, 204, 226, and 224); and

displaying the input associated with the first unsatisfied expectation in response to the selection (*Dvorak* figure 2 items 202, 204, 226, and 224).

It would have been obvious to one of ordinary skill in the art to include in the method of *Merkin* the scheduling system as taught by *Dvorak* since the claimed invention is merely a

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combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

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45. **Claims 8-14** are rejected under 35 U.S.C. 103(a) as being unpatentable over *Merkin* in view of *Dvorak* in further view of U.S. Patent Application 2004/0243619 to *Kelly et al.*

46. **As to claim 8**, *Merkin* and *Dvorak* disclose the method substantially as claimed in claim 1; however *Merkin* does not explicitly teach receiving a request for health maintenance items for a patient. In a similar field of endeavor (as *Kelly*, while being directed towards an automotive application, still is directed towards scheduling maintenance items), *Kelly* discloses:

receiving a request for health maintenance items for a patient (paragraphs [0063]-[0066] and [0057]).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify *Merkin* with *Kelly* since the combination would improve the users knowledge of the each of the maintenance items required so that more informed decisions can be made.

47. **As to claim 9**, see the discussion of claims 1 and 8, additionally, *Kelly* discloses the method wherein the request is from a user (paragraphs [0063]-[0066] and [0057]).

48. **As to claim 10**, see the discussion of claims 1 and 8-9, additionally, *Merkin* discloses the method further comprising obtaining patient information for the person from the person's electronic medical record in a comprehensive healthcare system (*Merkin* column 6 lines 11-51, column 9 lines 43-67, and column 10 lines 1-17).

49. **As to claim 11**, see the discussion of claims 1 and 8-10, additionally, *Merkin* discloses obtaining more than one recommended health maintenance items (*Merkin* column 4 lines 1-29).

50. **As to claim 12**, see the discussion of claims 1 and 8-11, additionally, *Merkin* discloses applying more than one factor to generate an expectation for the one or more health maintenance items (*Merkin* column 4 lines 16-29).

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51. **As to claim 13**, see the discussion of claims 1 and 8-12, additionally, *Merkin* discloses the method further comprising comparing the information for the person with the more than one factor to determine the person qualifies for one or more of the one or more recommended health maintenance items (*Merkin* column 11 lines 5-37).

52. **As to claim 14**, see the discussion of claims 1 and 8-13, additionally, *Merkin* discloses the method further comprising generating an expectation for each of the health maintenance items for which the patient qualifies (*Merkin* claim 1 part (d), column 9 lines 43-67, and column 10 lines 1-17).

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53. **Claims 17-20** are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application 2003/0154107 to *Medvedeff* in view of U.S. Patent 5,737,539 to *Edelson* in further view of *Dvorak*.

54. **As to claim 17**, *Medvedeff* discloses a method in a computer system for determining whether a patient may experience an adverse reaction to a satisfier chosen for an expectation for a health maintenance item, the method comprising:

receiving a satisfier for an expectation for a health maintenance item (*Medvedeff* paragraph [0033]);

determining whether the person may have an adverse reaction to the satisfier (*Medvedeff* paragraph [0034]); and

if so, warning of the possible adverse reaction to the satisfier (*Medvedeff* figures 4C and 4D).

However, *Medvedeff* does not teach that the computing device determines if the person may have an adverse reaction. *Edelson* makes this disclosure (*Edelson* column 31 lines 8-46).

It would have been obvious to automate the system of *Medvedeff* using the method of *Edelson* since the combination would assist in the prevention of human error.

Additionally, *Medvedeff* and *Edelson* do not explicitly teach selecting, receiving, storing and displaying a satisfier. *Dvorak* discloses:

displaying an input area for receiving a selection of the satisfier (*Dvorak* figure 1, and figure 2 items 216, 218, 220);

receiving, by the computing device, the selection of the satisfier (*Dvorak* figure 1, and figure 2 items 216, 218, 220);



storing the selection of the satisfier in association with the person, wherein a health maintenance schedule for the person is updated based on the stored selection (*Dvorak* figure 2 items 202, 204, 226, and 224); and

displaying the updated health maintenance schedule (*Dvorak* figure 2 items 202, 204, 226, and 224).

It would have been obvious to one of ordinary skill in the art to include in the method of *Medvedeff* and *Edelson* the scheduling system as taught by *Dvorak* since the combination would assist in the prevention of human error in making important identifications of adverse events.

55. **As to claim 18**, see the discussion of claim 17, additionally *Medvedeff* discloses the method wherein the satisfier is an order for a medication (*Medvedeff* figure 4B and paragraphs [0033] – [0035]).

56. **As to claim 19**, see the discussion of claims 17 and 18, additionally, *Medvedeff* discloses the method wherein a determination is made as to whether the person is allergic to the medication (*Medvedeff* figures 3 and 4).

57. **As to claim 20**, see the discussion of claim 17, additionally, *Medvedeff* discloses the method wherein the healthcare information for a person is obtained from the patient's electronic medical record in a comprehensive healthcare environment (*Medvedeff* figures 3 and 4).

58. **As to claim 21**, *Edelson* discloses the method further comprising obtaining information regarding possible adverse reactions to the satisfier from a database (*Edelson* column 31 lines 8-46).

59. **As to claim 22**, see the discussion of claims 17 and 21, additionally, *Edelson* discloses the method further comprising comparing the information regarding possible adverse reactions to

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healthcare information for the person to determine whether the person may have an adverse reaction to the satisfier (*Edelson* column 31 lines 8-46).

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60. **Claims 37-42 and 48** are rejected under 35 U.S.C. 103(a) as being unpatentable over *Merkin* in view of U.S. Patent 5,737,539 to *Edelson* in further view of *Dvorak*.

61. **As to claim 37**, *Merkin* discloses a computerized system for determining a patient may experience an adverse reaction to a satisfier chosen for an expectation for a health maintenance item, the method comprising:

- a first determining module, for determining an expectation for a health maintenance item for a person, utilizing a computing device (*Merkin* column 4 lines 21-29 and claim 1);

- a second determining module for automatically determining the expectation has not been satisfied (*Merkin* column 4 lines 21-29 and claim 1);

- a third determining module for determining a recommended satisfier for the expectation (*Merkin* column 4 lines 21-29 and claim 1);

- a first obtaining module for obtaining, utilizing a first computer process, healthcare information for the person (*Merkin* see electronic health record abstract, column 2 lines 62-67, column 3 lines 1-17, and column 7 lines 5-32);

- a first receiving module for receiving the satisfier for the expectation for the health maintenance item (*Merkin* see electronic health record abstract, column 2 lines 62-67, column 3 lines 1-17, and column 7 lines 5-32);

However, *Merkin* does not explicitly teach warning about a possible adverse reaction. *Edelson* discloses:

- a fourth determining module for determining whether, utilizing a second computer process, the person may have an adverse reaction to the satisfier by comparing information

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regarding possible adverse reactions to the healthcare information for the person (*Edelson* column 31 lines 8-46);

a warning module for warning of the possible adverse reaction to the satisfier (*Edelson* column 31 lines 8-46);

It would have been obvious to automate the system of *Merkin* using the method of *Edelson* since the combination would assist in the prevention of human error.

*Merkin* teaches that scheduling an appointment may be a satisfier (*Merkin* column 11 lines 37-53). However, the references do not teach receiving a selection, and storing and displaying a schedule. *Dvorak* discloses:

a second receiving module for receiving, utilizing a third computer process, input associated with the satisfier, wherein the first, second and third computer processes are performed on one or more computing devices (*Dvorak* figure 1, and figure 2 items 216, 218, 220);

a storing module for storing the input associated with the satisfier, wherein storing the input updates a schedule for the patient (*Dvorak* figure 2 items 202, 204, 226, and 224); and

a displaying module for displaying the updated patient schedule, including the satisfier, wherein the satisfier is selectable to view the input associated with the satisfier (*Dvorak* figure 2 items 202, 204, 226, and 224).

It would have been obvious to one of ordinary skill in the art to include in the method of *Merkin* and *Edelson* the scheduling system as taught by *Dvorak* since the claimed invention is merely a combination of old elements, and in the combination each element merely would have

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performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

62. **As to claim 38**, see the discussion of claim 37, additionally, *Edelson* discloses the system wherein the satisfier is an order for a medication(*Edelson* column 31 lines 8-46).

63. **As to claim 39**, see the discussion of claim 37 and 38, additionally, *Edelson* discloses the system wherein a determination is made as to whether the person is allergic to the medication (*Edelson* column 31 lines 8-46).

64. **As to claim 40**, see the discussion of claim 37, additionally, *Merkin* discloses the system wherein the healthcare information for a person is obtained from the patient's electronic medical record in a comprehensive healthcare environment (*Merkin* see electronic health record abstract, column 2 lines 62-67, column 3 lines 1-17, and column 7 lines 5-32).

65. **As to claim 41**, *Edelson* discloses the method further comprising obtaining information regarding possible adverse reactions to the satisfier from a database (*Edelson* column 31 lines 8-46).

66. **As to claim 42**, see the discussion of claims 37, additionally, *Dvorak* discloses the system wherein the satisfier is further selectable to update the input associated with the satisfier (*Dvorak* figure 2 items 202, 204, 226, and 224).

67. **As to claim 48**, *Merkin* discloses a computer-readable medium having computer-executable instructions for performing a method, the method comprising:

receiving a satisfier for an expectation for a health maintenance item (*Merkin* column 4 lines 21-29 and claim 1);

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obtaining healthcare information for a person (*Merkin* see electronic health record abstract, column 2 lines 62-67, column 3 lines 1-17, and column 7 lines 5-32);

*Merkin* teaches that scheduling an appointment may be a satisfier (*Merkin* column 11 lines 37-53). However, the reference does not teach determining and displaying a satisfier, receiving a selection, and storing and displaying a schedule. *Dvorak* discloses:

displaying the healthcare information in a schedule in a first screen on a user-interface (*Dvorak* figure 1, and figure 2 items 216, 218, 220);

receiving selection of the satisfier (*Dvorak* figure 1, and figure 2 items 216, 218, 220);

obtaining, utilizing one or more computing devices, information associated with the satisfier (*Dvorak* figure 1, and figure 2 items 216, 218, 220); and

displaying the information associated with the satisfier in a second screen on the user-interface (*Dvorak* figure 1, and figure 2 items 216, 218, 220).

However, the references do not explicitly teach determining that a person may have an adverse reaction. *Edelson* discloses

determining, utilizing one or more computing devices, the person may have an adverse reaction to the satisfier (*Edelson* column 31 lines 8-46); and

warning of the possible adverse reaction to the satisfier (*Edelson* column 31 lines 8-46).

It would have been obvious to automate the system of *Medvedeff* using the method of *Edelson* since the combination would assist in the prevention of human error.

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68. **Claim 47** is rejected under 35 U.S.C. 103(a) as being unpatentable over *Medvedeff* in view of *Dvorak*.

69. **As to claim 47**, *Medvedeff* discloses a system in a computerized environment for determining a patient may experience an adverse reaction to a satisfier chosen for an expectation for a health maintenance item, them method comprising:

receiving a first satisfier for an expectation for a health maintenance item (*Medvedeff* paragraph [0033]);

obtaining healthcare information for a person including a second satisfier associated with the person (*Medvedeff* paragraph [0033]);

determining the person may have an adverse reaction to the first satisfier, including comparing the first satisfier to the healthcare information (*Medvedeff* paragraph [0033]);

warning of the possible adverse reaction to the first satisfier (*Medvedeff* figures 4C and 4D).

However, *Medvedeff* does not explicitly teach receiving input information, displaying a satisfier, receiving a selection and displaying input information. *Dvorak* discloses

receiving, by a computing device, input information associated with the first satisfier (*Dvorak* figure 1, and figure 2 items 216, 218, 220);

updating, by the computing device, the first satisfier based the input information (*Dvorak* figure 1, and figure 2 items 216, 218, 220);

displaying the first satisfier (*Dvorak* figure 1, and figure 2 items 216, 218, 220);

receiving selection of the first satisfier (*Dvorak* figure 1, and figure 2 items 216, 218, 220); and

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displaying at least some of the input information based on the selection of the first satisfier (*Dvorak* figure 2 items 202, 204, 226, and 224).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine *Medvedeff* with *Dvorak* in order to prevent adverse reactions.



***Conclusion***

70. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eliza Squires whose telephone number is (571)270-7052. The examiner can normally be reached on Monday through Friday 8 am - 4 pm Eastern Standard Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Gilligan can be reached on 571-272-6770. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/E. S./

Examiner, Art Unit 3626

/C. Luke Gilligan/

Supervisory Patent Examiner, Art Unit 3626